

VIRGINIA:

BEFORE THE VIRGINIA GAS AND OIL BOARD

IN RE: VGOB DOCKET NO. 01-0320-0881

RECOMMENDATION BY THE VIRGINIA GAS AND OIL INSPECTOR (herein "Inspector") THAT THE VIRGINIA GAS AND OIL BOARD (herein "Board") IMPOSE A CIVIL CHARGE AGAINST EVAN ENERGY COMPANY, LC (herein "Operator") PURSUANT TO VA. CODE § 45.1-361.8.C. AND THE BOARD'S ORDER ENTERED IN VGOB DOCKET NO. 92-0529-0226 (herein "Civil Charge Procedural Rules") FOR OPERATOR'S PERMITTED GAS AND OIL OPERATIONS 06-AMV, PERMIT #4801, FILE #PL-0743 (herein referred to as "Permitted Activities")

1. **Hearing Date and place:** This matter came before the Board for hearing at 9:00 a.m. on March 20, 2001, pursuant to Va. Code § 45.1-361.8.C. and the Civil Charge Procedural Rules, upon the Inspector's recommendation that the Board impose a civil charge of \$5,540.00 on the operator for its failure to follow the terms and conditions of its permit, specifically its failure to provide adequate erosion and sediment controls and its failure to obtain proper permits prior to ground disturbing activity, as more particularly set forth in Notices of Violation (NOV) written on January 19, 2001.
2. **Appearances:** Brint Camp and Bob Dahling appeared for the Operator and Sandra B. Riggs, Assistant Attorney General, was present to advise the Board.
3. **Jurisdiction:** Pursuant to Va. Code § 45.1-361.1 *et seq.* and more particularly Va. Code §45.1-361.8.C., the Board finds that it has jurisdiction over the subject matter.
4. **Findings of Fact:**
 - a. On November 20, 2000, the Division of Gas and Oil issued permit number 4801 to Evan Energy Company, LC for the operation named 06-AMV Gathering Pipeline. Terms and conditions of the permit include all provisions of the Virginia Gas and Oil Act (Chapter 22.1 of Title 45.1 of the Code of Virginia), the Virginia Gas and oil Regulation (4VAC 25-150 *et seq.*), and the operations plan submitted with the permit application.
 - b. On January 19, 2001, the Division of Gas and Oil Issued Notice of Violation #878 to the Operator citing inadequate erosion and sediment control measures in conjunction with the Permitted Activities.
 - c. The Operator has exhibited a pattern of erosion and sediment control violations.
 - d. On January 19, 2001, the Division of Gas and Oil issued Notice of Violation number 876 to the Operator citing the construction and utilization of an unpermitted access road in conjunction with the Permitted activities.
 - e. The operator has exhibited a pattern of conducting gas and oil operations beyond permitted limits.

- f. Pursuant to the Civil Charge Procedural Rules, the Inspector found and recommended to the Board the following penalties:

<u>Criterion</u>	<u>Point Determination Factor</u>	<u>Points Assessed</u>
	<u>Notice of Violation # 878</u>	
Seriousness of violation (Table 1)	Significant actual or potential damage, correctable only after substantial effort/ time	+6
Degree of operator negligence (Table 2)	Negligence – occurrence not prevented due to indifference, lack of diligence, or lack of reasonable care; a pattern of similar violations at other sites	+3
Good faith points	Violation was not abated prior to set abatement date	0
	<u>Total points assessed - NOV #878</u>	<u>+9</u>
	<u>Base civil charge</u>	<u>\$2,100.00</u>

History of Violations N/A - Applied to Violation # 876, below

<u>Total recommended Civil Charge - Violation # 878</u>	<u>\$2,100.00</u>
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	<u>Notice of Violation # 876</u>	
Seriousness of Violation (Table 1)	Moderately significant actual or potential damage to the environment (3 points); Violation of administrative requirement that tends to hamper or obstruct enforcement (4 points)	+7
Degree of operator Negligence (Table 2)	Gross negligence - Knowing or intentional conduct - operator was aware of potential violation but failed to avoid or correct the violation	+6
Good faith points	Prompt efforts were taken - violation was abated prior to the set date.	-2
	<u>Total points assessed - NOV 876</u>	<u>+11</u>
	<u>Base civil charge</u>	<u>\$3,400.00</u>

History of violations	One violation issued against operation 06-AMV prior to 1/19/01 (Notice of Violation # 866 issued 12/5/00 for Unpermitted use of access road)	+\$40.00
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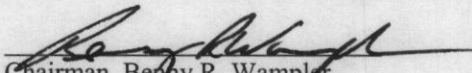
<u>Total recommended Civil Charge - Violation # 876</u>	<u>\$3,440.00</u>
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<u>Inspector's Total Recommended Civil Charges - Docket 01-03/20-0881</u>	<u>\$5,540.00</u>
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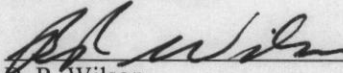
- g. At the hearing of this matter, the Operator offered testimony favoring the reduction of points assigned under the Civil Charge Procedural Rule for Seriousness of Violation and Degree of Operator Negligence for NOV #878, and for Seriousness of Violation and Degree of Operator Negligence for NOV #876.
- h. The Board, by unanimous vote, affirmed the amount of the civil charge as recommended by the Inspector.
- i. The Operator, by its participation in the hearing and lack of voiced disagreement with the Board decision, is deemed to have accepted the civil charges in lieu of civil penalties which could be imposed under § 45.1-361.8.B.

5. Conclusions and Findings: In accordance with the Civil Charge Procedural Rules for the assessment of points and charges and testimony presented by the Inspector and the Operator, The Board adopts the Inspector's recommendations set forth in Paragraph 4(f) above and establishes the civil charges at \$5,540.00. The Operator is hereby ordered to make payment of the \$5,540.00 civil charge imposed hereby to the Treasurer of Lee County as required by Va. Code § 45.1-361.8.C. As specified in section IX of the Civil Charge Procedural Rules, payment must be made within 30 days of Operator's receipt of this order, and a copy of the certified check must be submitted to the Inspector as proof of payment.

Done and executed this 26th day of July, 2001, by a majority of the Virginia Gas and Oil Board.

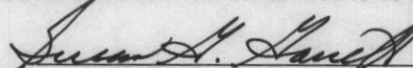

Chairman, Benny R. Wampler

Done and performed this 2 day of ~~July~~ ^{August}, 2001, by order of the Board.


B. R. Wilson
Principal Executive to the Staff
Virginia Gas and Oil Board

STATE OF VIRGINIA:)
COUNTY OF WISE:)

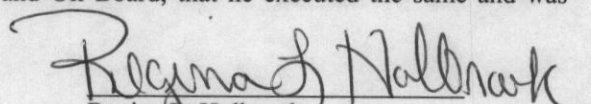
Acknowledged on this 26th day of July, 2001, personally before me a notary public in and for the Commonwealth of Virginia, Appeared Benny R. Wampler, being duly sworn did depose and say he is Chairman of the Virginia Gas and Oil Board, that he executed the same and was authorized to do so.


Susan G. Garrett
Notary Public

My commission expires July 31, 2002

STATE OF VIRGINIA)
COUNTY OF WASHINGTON)

Acknowledged on this 2nd day of ~~July~~ ^{August}, 2001, personally before me a notary public in and for the Commonwealth of Virginia, Appeared B. R. Wilson, being duly sworn did depose and say he is Principal executive to the Staff of the Virginia Gas and Oil Board, that he executed the same and was authorized to do so.


Regina D. Holbrook
Notary Public

My commission expires July 31, 2002